

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554**

In the Matter of
Federal-State Joint Board
On Universal Service

CC Docket No. 96-45

**COMMENTS OF
CENTENNIAL COMMUNICATIONS CORP.**

INTRODUCTION AND SUMMARY

Centennial Communications Corp. (“Centennial”) hereby submits comments in response to the *Notice of Proposed Rulemaking* issued by the Commission (“Commission”).¹ The *NPRM* sought comment on the *Recommended Decision* of the Federal-State Joint Board on Universal Service (“Joint Board”), concerning the process for designation of eligible telecommunications carriers (“ETCs”) and the Commission’s rules regarding high-cost universal service support.²

In these Comments, Centennial has limited itself to a few points, based on its experience as a wireless ETC over the last seven years. Centennial may well have comments on additional matters in response to comments filed by others.

First, in adopting ETC designation guidelines for states, the Commission should be sure not to adopt guidelines that directly or indirectly favor landline service over wireless service. Wireless service is increasingly popular among telecommunications consumers and, is probably

¹ Federal-State Joint Board on Universal Service, Notice of Proposed Rulemaking, CC Docket 96-45, FCC 04-127, (rel. June 8, 2004) (“*NPRM*”).

² Federal-State Joint Board on Universal Service, Recommended Decision, CC Docket No. 96-45, 19 FCC Rcd 4257 (2004) (“*Recommended Decision*”). The *NPRM* itself is relatively brief, identifying in a few paragraphs the key areas addressed by the *Recommended Decision*, and seeking comment on them. See *NPRM* at ¶¶ 2-5. For this reason, we will cite directly to the portions of the *Recommended Decision* at issue, rather than to the *NPRM* itself.

viewed as at least as “essential” as landline service for a growing fraction of the market.

Second, Centennial urges the Commission not to include consideration of the per-line support that a second or subsequent ETC might receive as part of the “public interest” analysis under Section 214(e)(2). While funding issues are of course important in the overall context of the universal service system, Centennial believes that they are properly viewed as distinct from whether the public interest in a particular area would be served by the designation of a new ETC.

Third, any new criteria for ETC designation to be applied to existing ETCs should not be applied retroactively. Instead, existing ETCs should have a period of three to five years to come into compliance with any new criteria that they do not meet and which were not imposed on them at the time of certification. States should supervise this transition period in the course of their annual recertification of existing ETCs’ continuing eligibility.

Fourth, the Commission should reject suggestions to limit universal service funding to a single “primary line” per household. Implementing such a system would be administratively impossible given the different living arrangements in different dwellings. In addition, such a system would require an elaborate cost allocation plan to ensure that the rural ILECs’ costs associated with the primary lines are not inflated through the inclusion of costs associated with other non-primary lines and other operations. Aside from effectively depriving consumers in rural and high-cost areas of the same choice of telephone services that urban consumers enjoy, it would also, inevitably, be anticompetitive by favoring the existing ILEC against other providers, such as wireless providers.

Fifth, the Commission should revise and streamline its current inefficient process for disaggregating the study areas of rural ILECs whose landline territory is bisected by the boundaries of the authorized service territory of a newly designated wireless ETC. Presently this

essentially *pro forma* disaggregation only occurs as a result of a specific petition and decision by the Commission, which can significantly delay the ability of wireless ETCs to receive the universal service funding that the affected state commission intended them to receive by designating them ETCs in the first place.

Sixth, the Commission should retain the current method of identifying wireless customers, for purpose of line counts, based on subscriber address. While it is of course theoretically conceivable that a wireless ETC might erroneously or intentionally assign customers to ETC areas in order to increase payments from the fund, it is equally theoretically conceivable — with much greater financial exposure to the fund — that landline rural ILECs might misreport their costs, or seek recovery for costs that were not prudently incurred.

Finally, the Commission should modify its rules so that newly designated ETCs are automatically entitled to begin to receive funding as of the date of their designation by the relevant state regulator. The present system, in which receipt of funds can be delayed by 90 days or more, makes no sense. Indeed, the delay arises from administrative requirements relating to projections of future fund usage, not to any public policy purpose regarding designation of ETCs.

I. BACKGROUND: CENTENNIAL’S SERVICES.

Centennial is a publicly traded, independent, regional communications service provider. In the continental United States, Centennial (through various subsidiaries) offers cellular service to more than 500,000 subscribers in thirty markets covering six states, mainly in small cities and rural areas in the Midwest and the South. Centennial has also been operating in Puerto Rico for over seven years, and it currently provides PCS to over 325,000 subscribers. Centennial is the only facilities-based Competitive Local Exchange Carrier (“CLEC”) in Puerto Rico, with an extensive fiber optic network interconnected to all of the incumbent carrier’s host end office switches, and serving over 250,000 access line equivalents using its own facilities.

In Puerto Rico, Centennial pioneered the use of wireless technology as a replacement for basic, landline telephone service with its “HomePhone” service. Within two years of the introduction of HomePhone service, Centennial had over 21,000 subscribers, who otherwise would have been unable to receive telephone service within a reasonable time, or at all, from the incumbent carrier, the Puerto Rico Telephone Company (“PRTC”). Over the past three years, Centennial has continued to improve its “basic” wireless service to include better pricing plans and better coverage, such that most subscribers now find that this basic wireless service is itself a suitable substitute for basic landline service.

Since 1997, Centennial has held ETC designations in Puerto Rico, both as a facilities-based CLEC and as a CMRS provider. Centennial received ETC designation for non-rural areas of Mississippi and rural areas of Michigan in 2003. Centennial received ETC designation for rural areas of Louisiana in 2004. Centennial anticipates receiving approximately \$5 million in USF during 2004 for its mainland markets and approximately \$12 million for Puerto Rico.

II. COMMENTS REGARDING CRITERIA FOR ETC DESIGNATION

A. PERMISSIVE FEDERAL GUIDELINES FOR DESIGNATING ETCs MUST ACCOMMODATE THE DIFFERENT TECHNICAL AND SERVICE CHARACTERISTICS OF DIFFERENT TECHNOLOGIES.

Centennial generally supports the Joint Board’s recommendation to adopt core minimum requirements for states to use in making ETC designations.³ For example, it would be reasonable for ETCs to provide state regulators with written build-out plans showing how universal service funds will be used to improve service;⁴ make regular reports to state regulators demonstrating that they have spent the funds as projected or lose funding; demonstrate adequate

³ Recommended Decision at ¶¶ 9-13.

⁴ *Id.* at ¶ 24.

financial resources to make effective use of universal service funds to provide service into the future;⁵ and commit to apply appropriate consumer protection standards.⁶

However, it is critical that the Commission not define these requirements in terms that inherently assume that the underlying provider will be a wireline, as opposed to a wireless, carrier. Not only are more and more Americans coming to view their wireless telephones as an essential communications tool, in rural areas in particular, wireless service offers unique communications advantages that urban and suburban consumers take for granted.⁷ These include basic mobility — the ability to send and receive calls in the car, while shopping, while visiting friends or family — as well as the fact that many if not most wireless plans include very large “local” calling areas, at least some “long distance” calling at no extra charge, and features such as Caller*ID and voice mail, text messaging, and, increasingly, Internet access.

Given these distinctive advantages of wireless service, the public interest, as well as the specific interest of rural consumers, would not be served by a set of criteria for ETC designation that made it more difficult for wireless providers to serve rural areas when compared with landline providers. In addition, such a result would on its face fail the test of competitive neutrality.

⁵ *Id.* at ¶ 22.

⁶ *Id.* at ¶¶ 31-34.

⁷ In December 1999 there were approximately 269.2 million lines in service (wireless and landline), of which approximately 79.7 million, or 29.6%, were wireless. By December 2003, there were approximately 338.4 million lines in service, of which 157 million, or 46.4%, were wireless. Over that time period, while wireless lines increased by 97% -- nearly doubling -- landline lines actually decreased by about 4.3%. *Local Telephone Competition: Status as of December 31, 2003*, Industry Analysis and Technology Division Wireline Competition Bureau (June 2004). Clearly, in the near future -- perhaps even this year -- there will be more wireless lines in service than landline lines, making wireless the dominant form of communications in the country as a whole. Indeed, this may already have occurred, since the wireless figures are for subscribers, and some wireless subscribers certainly have more than one line. In these circumstances, it is hard to see why, in the long run, universal service policy should remain overly focused on the needs and issues of landline service, to the exclusion of the wireless service that
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One proposed criterion is the ability of an ETC “to remain functional in emergencies.”⁸ Centennial does not object to this proposal. In fact, wireless carriers, in some respects, have advantages in this area that should be made more widely available. For example, landline service in rural areas is typically provided by means of above-ground outside plant on poles. If severe weather or some other cause downs a substantial number of poles or lines — particularly large cables relatively near a central office — then hundreds or thousands of people can be put out of service as a result of one problem. Wireless networks, however, typically have back-up power at rural cell sites, and those cell sites often communicate back to the wireless switch not by means of landline links, but, rather, by means of point-to-point microwave. As a result, wireless service can remain functional in some emergency situations even when landline service is out of commission.⁹

It is certainly true that an emergency event that drives a substantial fraction of the population to try to make phone calls can overwhelm a wireless system, so that only a fraction of call attempts are successful. But this is equally true of landline service. As Centennial understands it, for example, it is quite typical for landline telephone companies to engineer their networks with an 8:1 concentration ratio of subscriber lines to switch ports. What this means is that if more than 1/8 of landline customers go off hook at the same time, callers above the 1/8 level will simply not get dial tone.

Moreover, to the extent that it is considered an important public interest to allow a greater

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objective market data plainly show Americans to prefer.

⁸ See *id.* at ¶ 30.

⁹ Centennial had this very situation occur when a hurricane in recent years hit southern Louisiana. Centennial made a point of providing generators and adequate fuel for its microwave-linked cell sites, with the result that its network ***never went down*** during the hurricane and its aftermath, even though there
(note continued)...

fraction of calls to go through in an emergency, the appropriate policy response is to specifically authorize wireless ETCs to use universal service funds to deploy additional cell sites and radios so that the nation's wireless network becomes more robust. In this regard, unless an emergency event leading to (in effect) a mass calling situation conveniently occurs at night, when most everyone is home, it is *more important*, as a public interest matter, that *wireless* networks have adequate capacity to handle sudden surges in call volume than it is for landline networks to be able to do so. This is because people away from their homes in such an emergency — at work, on the road, doing errands, visiting friends — will be strongly motivated to call home to report their own situation and to check on their loved ones. It is essentially impossible to meet this particular public interest need with landline telephone service only.

Finally, Centennial urges the Commission to reject any requirement, as a criterion for receiving universal service funding, that some amount of “local” usage be provided.¹⁰ This is not because wireless carriers such as Centennial want to offer *less* usage than landline carriers; to the contrary, they want to offer *more*. Putting the matter bluntly, the notion of “local” usage is obsolete. Wireless carriers pioneered pricing plans in which calls throughout the United States were all included in a flat-rated plan (or at no additional charge over a standard usage/airtime fee). Wireline carriers followed suit with various “call anywhere” flat-rated plans. More recently, providers of Voice over Internet Protocol services use this as their standing pricing model. In setting universal service policy for the future, the Commission should respect and acknowledge the broad consumer appeal of such an approach.

Indeed, a key objective of having “a rapid, efficient, nationwide and world-wide wire and

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was no landline service available.

radio communication service with adequate facilities at reasonable charges,” *see* 47 U.S.C. § 151, is, as the statute states, to allow people to conveniently and affordably call *nationwide*. Centennial certainly recognizes that it has been traditional for landline carriers to divide the nation up into seemingly innumerable small (sometimes tiny) “local” calling areas. But it is long past the time that any serious industry observer could conclude that restricting affordable calling to such small “local” areas today serves anything other than the landline carriers’ interest in receiving toll charges from end users, access charges from long distance carriers, or both, when calls cross these arbitrary “local” lines.¹¹ It would be perversely backward-looking, and directly contrary to the public interest, to hobble ETCs with an obligation to define specific “local” areas (or, worse, to have traditional, restrictive landline “local” areas imposed on them).

B. PER-LINE SUPPORT SHOULD NOT BE CONSIDERED PART OF THE “PUBLIC INTEREST” ANALYSIS.

The *NPRM* seeks comment on whether states should consider the per-line support that a second ETC would receive as part of the “public interest” analysis, *i.e.*, whether there are public interest considerations that would weigh against designating an additional ETC in areas where per line support levels are high.¹² Centennial does not believe that the Commission should require or even permit this particular consideration within the “public interest” analysis under 47 U.S.C. § 214(e)(2). While issues relating to funding levels are obviously important to the overall operation of the fund, Centennial believes that they seriously distort the more specific issue of whether the public interest of a particular rural area — that is, essentially, the interest of

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¹⁰ See Recommended Decision at ¶¶ 35-36.

¹¹ In fact, the distinctions between “local” and “long distance” calling are fast disappearing. See Christopher Stern, *So Long to Long-Distance?*, www.washingtonpost.com (Aug. 5, 2004) available at <http://www.washingtonpost.com/wp-dyn/articles/A41048-2004Aug4.html>.

telecommunications consumers in that area — would be served by designating an additional ETC.

The issue of universal service funding levels is, as the Commission is aware, complex and controversial. Traditional rural ILECs have received funding, at least in theory, based on the costs they incur to provide rural service. But Centennial submits that this is not really the case. While it is true that a rural ILEC's funding is generally based on the costs it reports, as far as Centennial is aware, neither this Commission nor any state regulator has ever — at least in recent years — actually undertaken an *investigation* or *audit* of the affected rural ILEC's operations to determine whether (a) the costs are properly reported (including proper allocation of costs as between regulated and non-regulated activities, etc.) and (b) if properly reported, the costs were prudently incurred.

Although the Commission's most recent effort to audit the books of major price cap ILECs was never formally completed, the preliminary results showed potentially quite significant overstatements of ILEC costs.¹³ This is not to say that the costs of rural ILECs in general, or any particular rural ILEC, are either mis-reported or imprudently incurred. It *is* to say that, in fairness, the Commission must admit that it actually has no basis, other than the rural ILECs' own self-reporting, to believe that those costs are accurate.

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¹² See Recommended Decision at ¶¶ 43-44.

¹³ See 1988 Biennial Regulatory Review—Review of Depreciation Requirements for Incumbent Local Exchange Carriers, Ameritech Corporation Telephone Operating Companies' Continuing Property Records Audit, et. al., GTE Telephone Operating Companies Release of Information Obtained During Joint Audit, Further Notice of Proposed Rulemaking in CC Docket Nos. 98-137 and 99-117, and AD File No. 98-26, FCC 00-119 (rel. April 3, 2000); Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low Volume Long Distance Users, Federal-State Joint Board on Universal Service, Sixth Report and Order in CC Docket Nos. 96-262 and 94-1, Report and Order in CC Docket No. 99-249, Eleventh Report and Order in CC Docket No. 96-45, FCC 00-193 (rel. May 31, 2000).

In these circumstances, it would be profoundly unfair to simply take at face value that the rural ILEC in an area is “entitled” to \$30 or \$50 or \$100 or more per line per month based on little more than its say-so, and yet engage in extended regulatory soul-searching over whether the “public interest” is served by permitting a second ETC in the area to receive the same amount per line. With due respect, such an approach is simply an impediment to the designation of additional ETCs in rural areas.

If the Commission is concerned that the nation’s universal service system is getting too expensive, the solution does not lie in making it harder for rural consumers to experience the same benefits of competitive service — including competitive wireless services — that more urban and suburban consumers now simply take for granted. The solution is to find a way to encourage (indeed, to demand) continuing efficiency improvement on the part of those entities receiving universal service funding.

Under any scenario, however, simple fairness (as well as competitive neutrality) requires that ETCs serving the same area receive the same amount of funding, based on the whatever measure of funding (such as the present per-line system) the Commission ultimately adopts. By adhering to this principle, the Commission will not only facilitate the extension to rural areas of the same types of services urban consumers routinely enjoy; it will also ensure competitive neutrality as between wireline and wireless carriers as wireless services become increasingly popular — indeed, increasingly essential — to American telecommunications consumers.

In this regard, Centennial believes that its experience in Puerto Rico, although arising in the somewhat unusual situation there, is nonetheless a harbinger of what can be expected throughout the United States. While the landline ILEC in Puerto Rico has had a number of problems over the years, leading to a dismal landline penetration rate of approximately 75%, the

advent of wireless calling has led to an explosion of communications, linking disparate portions of the island, as well as linking the island more and more to the mainland. Based on information obtained in the course of regulatory litigation before the Puerto Rico state-level regulators, over the past year or so the absolute number of wireless lines in service in Puerto Rico has *exceeded* the absolute number of landline telephones in service. In other words, in Puerto Rico today, at least by the measure of lines in service, *wireless* is the “dominant” form of telecommunications that consumers have chosen. As Centennial understands it, this has also occurred, or is in the course of occurring, in various European and Asian nations as well. This strongly suggests that in planning universal service policy for the future, the Commission should expressly recognize and take account of the fact that in many critical respects, consumers *prefer* wireless to landline service, and increasingly view the former, rather than the latter, as “essential.”

For all these reasons, the Commission should reject proposals to engraft considerations of universal service funding levels — either overall or on a per-line basis — into the very different question of whether the “public interest” in an area would be served by designating additional ETCs there.

C. APPLICABILITY OF NEW GUIDELINES TO CURRENT ETCs.

Assuming that the Commission adopts new guidelines for the certification of ETCs in this proceeding, the question then arises whether, and how, those new guidelines should be applied to firms that have already been designated as ETCs, including ILECs and competitive ETCs.¹⁴ Centennial suggests that the most efficient and least disruptive way to deal with this issue is to allow already-certified ETCs a reasonable “grandfathering” period — perhaps in the range of three to five years — during which the already-certified ETCs would be expected to

come into compliance with any new guidelines that they do not meet and that they were not required to meet as part of their original certification.

In this regard, under existing rules, states are called upon to annually certify that the funds going to ETCs they have designated are being used for the purposes laid out in the statute (*i.e.*, being used for infrastructure and operating costs associated with providing supported services). Assuming that new certification guidelines are adopted in this proceeding, the Commission could reasonably require that each ETC, in advance of its annual certification, must report to the state commission whether it complies with the new guidelines and, if not, when it anticipates doing so. After the reasonable transition period suggested above, the ETC would need to be able to truthfully certify that it meets the then-current guidelines for certification or surrender that certification and cease receiving universal service funds.

In this regard, fairness requires that this requirement for annual reporting on compliance with then-current certification guidelines must apply equally to all ETCs—ILECs, CLECs and wireless ETCs. Just as there is no reason to presume that landline service should define the contours of services rural consumers should receive, and no reason to presume that rural ILECs' reported costs are properly recorded and prudently incurred, there is no reason to presume that rural ILECs — whose certification as ETCs following the passage of the 1996 Act was essentially automatic — will necessarily or inevitably be in compliance with whatever certification guidelines are adopted here.

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¹⁴ See Recommended Decision at ¶ 45.

III. LIMITING HIGH-COST SUPPORT TO A SINGLE CONNECTION WILL NOT WORK.

The *Recommended Decision* suggests that it might be appropriate, as a means to limit growth in the overall level of universal service funding, to limit universal service support to a single “primary line” connection into any given household.¹⁵ While Centennial certainly understands the desire to control the growth of universal service funding in general, with all due respect, this is a very bad idea, both pragmatically and as a matter of principle.

As a simple, practical matter, there are any number of problems with trying to designate a primary line for each household. First, many “households” are actually comprised of separate individuals — roommates, essentially — who each independently need a telephone. There is no sensible administrative procedure that would distinguish these situations from others where a customer (perhaps with teenaged children) is simply accustomed to having multiple lines. Second, unless this proposal is simply to become a cover for funding landline rural ILECs to the exclusion of any other ETC, there would need to be some procedure by which an existing multi-line household could designate *which* of its multiple lines — whether landline or wireless — should be designated the “primary” line. This problem would be impossible to handle administratively. How would a wireless carrier, for example, even know whether a landline telephone service is active at a particular address?

Third, for landline ILECs with multiple lines in place to a particular household, it would be necessary to develop cost allocation procedures to ensure that the purported “cost” of the “primary” line was not inflated to include a disproportionate share of joint, common and overhead costs that relate to other, non-primary lines or other activities. While the Joint Board advances several proposals in connection with its primary line recommendation for changing the

way in which rural ILECs receive universal service funding, all of these proposals would base future ILEC support on present levels of funding—levels that the ILECs have never had to verifiably justify on the basis of costs. Failure to establish such a cost allocation procedure would be an open invitation for rural ILECs to minimize the negative impact on their finances (inevitably caused by de-designating all “second lines” in a single household) by assigning costs properly attributable to the non-supported second lines to the supposed “primary” line.¹⁶

Aside from being unworkable in practice, the primary line approach is also bad in principle. First, it is difficult to imagine a way that such a scheme could be implemented that would not profoundly favor the designation of existing landline telephones as “primary.” This would simply delay the widespread growth of telephone competition in rural areas even more than the challenging economics of such areas already does.¹⁷ Second, implementing a primary line system would draw a sharp distinction between the services routinely and affordably

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¹⁵ See Recommended Decision at ¶ 56.

¹⁶ To the extent that the Commission believes it appropriate to continue to base universal service payments to carriers based on some measure of cost, some of the infirmities of cost-based regulation (*e.g.*, suppression of efficiency, incentives to mis-report costs) could be avoided by relying on objective, forward-looking costs as opposed to ILEC-specific embedded costs. In this regard, the TELRIC standard that the Commission has developed for use in pricing unbundled network elements under Section 251(c)(3) of the Act could provide a reasonable starting point. Indeed, because the TELRIC standard, in general, calls for developing a cost model based on the most efficient forward-looking technology, in cases where it is more efficient to serve a rural area by means of wireless service, the costing model could be designed to use that more efficient approach as, in effect, a cap on funding levels. This would, over time, provide the most economic encouragement to serve rural areas to whichever type of service is most efficient.

¹⁷ In this regard, it is unusual for truly competitive landline CLECs to try to serve rural areas, precisely because building competing network facilities in such areas is so expensive. As a result, to the extent that rural customers are going to obtain any benefits from competition for their telephone business, that competition is going to come from wireless services, at least for the foreseeable future. Any primary line system that recognizes this benefit would have to contain some way for customers to change their designation of “primary” line from a rural ILEC’s service to a wireless service, and vice versa. Yet this would present daunting administrative problems of its own, including validating consumer designations of different lines as primary at different times; issues of which member of a household is entitled to

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available in more urban areas — which include multiple lines to a household in order to meet any number of communications needs, such as fax machines and modems, teenaged children, etc. — and those available in rural areas. Since *unsupported* second line prices would necessarily increase significantly (unless the rural ILECs do not really need universal service funds to maintain low rates after all), the almost certain response will be a widespread disconnection of second lines in rural areas, even though consumers in urban areas would not face such a choice.

IV. PROCEDURAL ISSUES AND IMPROVEMENTS.

A. The Current Process For Service Area Redefinition Should Be Revised.

One of the administrative complications that wireless ETCs face as an administrative matter is that their FCC-defined service areas have been established without any concern for the boundaries of the landline ILECs that serve the same geographic location. In the context of wireless carriers designated to serve rural areas as an ETC, this means that the wireless carrier's service area may fully cover the territories of one or more rural ILECs while covering only a portion of the territories of other rural ILECs. Under current rules and the Act, when this occurs, before the wireless ETC can receive universal service funding, there must be a proceeding in which the study areas of rural ILECs whose territories are not fully covered are disaggregated by wire center.

Centennial does not dispute that that such disaggregation makes sense in order to match the funding level received by the wireless ETC to the funding level for the corresponding wire centers of the affected rural ILECs. Procedurally, however, the current process discriminates

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change the designation, etc. It is, in short, an unworkable system.

against wireless ETCs, because, as noted above, their funding does not begin until the administrative process of disaggregation is complete. Indeed, as Centennial understands the current rules and procedures, disaggregation of rural ILEC study areas adds a minimum of about 90 days (or longer) to the timeline for wireless ETCs' receipt of support.¹⁸

Moreover, in Centennial's experience, some rural ILECs have used this administrative situation, that arises through an accident of history — whether or not the boundary line of a particular wireless ETC's FCC-designated service territory does, or does not, slice across the boundaries of a pre-existing state-designated rural ILEC territory — to delay and confuse ETC proceedings. Putting aside the unusual situation in which these random misalignments of territories create a situation of involuntary “cream-skimming,” there is simply no reason to require any formal procedures at all when disaggregating a rural ILEC's territory.¹⁹

To address these problems, Centennial suggests that the Commission amend its rules to make disaggregation of a rural ILEC's study area automatic in any case in which a newly designated ETC serves some but not all of that study area. As under present law (specifically, the *Virginia Cellular* case), if disaggregation would be problematic because the territory of the new ETC includes only (or primarily) low-cost customers, while the rest of the rural ILEC's territory includes only (or primarily) high-cost customers, this would be a factor suggesting that the new ETC should not be designated at all for the affected low-cost area. Once the decision to

¹⁸ Pursuant to Section 54.207 of the Commission's rules, the Commission has 14 days from the time a state submits a disaggregation petition to issue a Public Notice, then 90 days thereafter in which it may launch a proceeding to consider the petition. The proceeding itself may extend beyond the 90-day period.

¹⁹ The problem of involuntary cream-skimming occurs when the wireless carrier's territory includes within its boundaries an area of concentrated, relatively low-cost customers (such as a small town in a rural area), but does not include surrounding areas, within the same rural ILEC's territory, that are more rural and costly to serve. This issue arose in the *Virginia Cellular* case. See *In the Matter of Federal-State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an [ETC]*, FCC 03-338 (released January 29, 2004) (“*Virginia Cellular*”) at ¶¶ 32-35.

designate is made, however, disaggregation should be automatic.

B. The Commission Should Maintain The Current Method For Identification Of Wireless Customers.

The *Recommended Decision* suggests that there might be a problem with the way in which wireless consumers are designated by wireless ETCs for purposes of obtaining funding.²⁰ Basically, the current method is for the billing address of the wireless customer to be used to determine where the customer receives service, for purposes of deciding whether the customer's line is inside or outside a rural ETC area or not.²¹ The apparent concern is that wireless ETCs might somehow mis-report customer addresses, or even encourage customers to use an address within an ETC area, in order to increase funding.

Centennial suggests that this concern is fanciful. There is no evidence that the current system is not working to fairly reflect the number of rural customers for whom support is appropriate. It is of course possible that some wireless ETCs will violate the requirements of truthful reporting to the Commission and to USAC to obtain more funding. But why is this any more likely than a rural ILEC mis-stating or inflating its own costs in order to obtain more funding? In sheer dollar terms, the latter form of abuse of the system is much more significant, at least potentially, than the former, since well above 90% of all universal service funding goes to landline ILECs in the first place. Careful audits of the books and operations of the rural ILECs receiving the most universal service funding would likely produce much more return for any given enforcement dollar than worrying about whether a few addresses for wireless customers are in the wrong zip code.

Indeed, Centennial suggests that this concern is, at bottom, a misguided effort to convert

²⁰ Recommended Decision at ¶¶ 98-103.

one of the key *benefits* of wireless service into a potential problem. Wireless service is mobile. Customers with wireless phones can make and receive calls from their homes — just like with a landline phone — but also from their back yards, from their cars, from parks, from their places of employment, from schools, from friends’ houses, etc. This means that wireless service is, in this respect, *more versatile* and *more valuable* than landline service — which is only available at the end of the wire from the central office to the home. A customer with an address in a rural area may well use their wireless telephone in places outside that rural area. By the same token, customers with addresses in urban areas — for which no universal service support is received — may well make use of their telephones in rural areas.²² The broader area within which rural customers may use their wireless telephones is a positive aspect of wireless service, not a negative aspect of it. This aspect of wireless service usage should be encouraged, not challenged — even indirectly — as somehow inappropriate.

C. The Commission’s Rules Should Be Amended To Allow Newly Designated ETCs To Receive Support As Of The Date Of ETC Designation.

Under current rules, there is often a significant lag between the time a state commission concludes that the public interest would be served by designating an entity as an ETC and the actual receipt of funding. Specifically, under 47 C.F.R. §§ 54.313 and 54.314, state regulators

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²¹ *Id.* at ¶ 98.

²² In this regard, for example, in designating Centennial as an ETC in certain rural areas of Louisiana, the Louisiana PSC has directed Centennial to provide service in two highly rural communities in the state which, at present, have *no* telephone service at all. While one benefit of the new service will certainly be that year-round residents of the area will receive telephone service for the first time, another benefit is that visitors to the area (which has some significant recreational attractions) will also have telephone service for the first time, including, *e.g.*, the ability to call “911” in emergencies. From this perspective, limiting universal service funding to only the lines of those customers whose addresses are within a designated rural area will actually tend to *understate* the true public interest benefits associated with designating a wireless ETC for such an area.

make quarterly certification filings, indicating designated ETCs for which support is projected during *subsequent* quarters. As the Commission has recognized, that application of these filing deadlines has the unintended effect of penalizing newly designated ETCs by delaying the availability of funding, and has acknowledged that the quarterly certification schedule was not intended to create a process that disadvantages carriers receiving ETC designation subsequent to one of the quarterly filing deadlines.²³

In these circumstances, like many carriers that have received ETC designation since the high-cost certification schedule was established, Centennial has been forced to pursue a waiver in each of the areas where it has received ETC designation. Without such a waiver, Centennial (and other ETCs in similar circumstances) will be denied between three and nine months' worth of universal service support even though the relevant state commission has already concluded that the public interest would be served by *providing* such support.

There is no sound public policy justification for this result. It is nothing more or less than unintended bureaucratic delay, arising as an artifact of administrative rules promulgated for another purpose. In these circumstances, the Commission should modify its rules to provide that — irrespective of whatever projections USAC might reasonably call on state commissions to make — a newly designated ETC shall be entitled to universal service support effective as of the day of designation by the state commission.²⁴

²³ RFB Cellular, Inc. Petition for Waiver of Sections 54.314(d) and 54.307(c) of the Commission's Rules and Regulations, Order, 17 FCC Rcd 24387, para. 6; Guam Cellular and Paging, Inc. Petition for Waiver of Section 54.314 of the Commission's Rules and Regulations, Order, CC Docket No. 96-45, DA 03-1169 (rel. April 17, 2003); Western Wireless Corporation Petition for Waiver of Sections 54.314 of the Commission's Rules and Regulations, Order, CC Docket No. 96-45, DA 03-2364 (rel. July 18, 2003).

²⁴ In this regard, in the situation noted above — where Centennial has been designated as the *first and only* provider of telephone service in certain areas of Louisiana — Centennial cannot actually afford to begin construction of the new infrastructure, despite the Louisiana PSC's designation of Centennial as an ETC as of January 2004, because of delays in the Commission's staff granting Centennial's waiver (note continued)...

CONCLUSION

Centennial urges the Commission to carefully consider the comments in this matter and to adopt final rules in accordance with Centennial's proposals herein.

Respectfully submitted,

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...(noted continued)

request to begin receiving funding as of that date. This problem of bureaucratic delay, therefore, is not merely hypothetical. At the moment, it is delaying the availability of basic telephone service to consumers in rural Louisiana.